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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,260	06/15/2004	Paul Beardow	22557-3013/US	9345

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OPPENHEIMER WOLFF & DONNELLY LLP  
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MINNEAPOLIS, MN 55402

EXAMINER
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AMIN, JWALANT B

ART UNIT	PAPER NUMBER
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2628

MAIL DATE	DELIVERY MODE
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02/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,260	<b>Applicant(s)</b> BEARDOW, PAUL	
	<b>Examiner</b> Jwalant Amin	<b>Art Unit</b> 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 139-191 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 139-191 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/4/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 139-191 have been considered but are moot in view of the new ground(s) of rejection.
3. Regarding claims 139, 140, 147, 149, 150, 155, 157, 158, 163, 166, 167, 172, 175, 176, 181, 184, 185, and 190, the applicant argues that Strandberg fails to teach "specifying an animation property from a number of available properties; associating each property with a parameter value, or allowing the parameter value to be varied" (see pg. 11 paragraph one of applicant's remarks).
4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., allowing the parameter value to be varied) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The examiner further interprets that the other features are taught by Strandberg. Please refer to the rejection of claim 139 below for details.

5. Regarding claims 141-143, 148, 151, 152, 156, 159, 160, 164, 165, 168, 169, 173, 174, 177, 178, 182, 183, 186, 187, and 191, the applicant argues that Kakiyama does not disclose "the use of mobile telephone-to-mobile telephone text message (also known as as "SMS"))" (see pg. 12 paragraph two of applicant's remarks).

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the use of mobile telephone-to-mobile telephone text message (also known as as "SMS")) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The examiner interprets that the language of the claim as presented does not require the text message to be send using a mobile telephone as a SMS.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 139, 140, 147/139, 147/140, 149, 150, 155/149, 155/150, 157, 158, 163/157, 163/158, 166, 167, 172/166, 172/167, 175, 176, 181/175, 181/176, 184, 185, 190/184 and 190/185 are rejected under 35 U.S.C. 102(b) as being anticipated by Strandberg (US 6,054,999).

9. Regarding claims 139, 149, 157, 166, 175 and 184 Strandberg teaches a method and an apparatus (col. 2 lines 66-67, col. 3 lines 1 and lines 33-37, col. 10 lines 36-41) for transmitting, receiving and assembling an animated image (animated cartoon film); said method comprising the steps of selecting a set of part images from among a plurality of part images (obtain correct part images from the data base memory 7, figs. 1-3, col. 3 lines 59-67, col. 4 lines 1-4, col. 8 lines 18-20, col. 10 lines 5-11 and lines 36-41); specifying a position, to be occupied in the display, for each part image in said set of part images (upper arm is positioned in the image such that the point M2 on the torso and the point M2 on the upper arm will overlap with one another, figs. 1-3, figs. 7-8, col. 10 lines 5-41 and lines 64-67, col. 11 lines 1-3, col. 13 lines 12-15; figs. 1 and 7 show the part images obtained from the database are placed at the position corresponding to the actor's part position; fig. 8 shows a cartoon figure with mutually different arm positions); specifying at least one animation property from a number of available animation properties for at least one part image in said set of images (the movement of various part of an actor's body controls the movement of each corresponding part of the cartoon or graphic figure, the regions that are to be

colored as provided with a code; thus movement and color correspond to the number of available animation properties; fig. 8, col. 3 lines 3-66, col. 4 lines 1-4, col. 6 lines 27-30, col. 13 lines 12-15; fig. 8 shows a cartoon figure with mutually different arm positions, but with the remainder of the figure stationary; the different arm positions are obtained as the human actor moves his arm with the remainder of his body stationary); each animation property being associated with an animation parameter value (each body segment has been allotted a part code, regions to be colored are provided with a code; these codes correspond to animation parameter value, col. 3 lines 42-52, col. 4 lines 1-4); specifying the animation parameter value for the at least one animation property (by specifying or identifying the code, the graphics equivalent of a particular animation property stored in the memory is accessed, col. 4 lines 7-15); and displaying each part image according to specifications (presents the assemblage on one or more display units).

10. Regarding claims 140, 150, 158, 167, 176 and 185 Strandberg teaches the step of specifying an animation property for each at least one part image in said set of part images comprises the step of specifying at least one of a color (col. 3 lines 59-67, col. 4 lines 1-4, col. 6 lines 27-30); type of movement (the movement of various part of an actor's body controls the movement of each corresponding part of the cartoon figure; fig. 8 shows a cartoon figure with mutually different arm positions, but with the remainder of the figure stationary, where the different arm positions are obtained as the human actor moves his arm with the remainder of his body stationary, col. 3 lines 3-66, col. 13 lines 12-15).

11. Regarding claims 147/139, 147/140, 155/149, 155/150, 163/157, 163/158, 172/166, 172/167, 181/175, 181/176, 190/184 and 190/185, Strandberg teaches the step of displaying the image on at least one of a computer (monitor 8, fig. 1, col. 10 lines 36-41; monitor is associated with a computer system), a personal digital assistant, and a mobile telephone.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 141/139, 141/140, 142, 143/139, 143/140, 148, 151/149, 151/150, 152, 156, 159/157, 159/158, 160, 164, 165/157, 165/158, 168/166, 168/167, 169, 173, 174/166, 174/167, 177/175, 177/176, 178, 182, 183/175, 183/176, 186/184, 186/185, 187 and 191, are rejected under 35 U.S.C. 103(a) as being unpatentable over Strandberg, and further in view of Kakiyama et al. (US 5,600,767; hereinafter referred to as Kakiyama).

14. Regarding claims 141/139, 141/140, 151/149, 151/150, 159/157, 159/158, 168/166, 168/167, 177/175, 177/176, 186/184 and 186/185, Strandberg teaches the step of providing at least one of the selection of the set of part images from among a plurality of part images, the specification of the position to be occupied

in the display, and the specification of the animation property for each at least one part in said set of part images (see rejection of claim 139 for details).

Although Strandberg teaches the claimed limitations as stated above, Strandberg does not explicitly teach to provide at least one of the selection or the specification in the form of a text message. However, Kakiyama teaches to a dialogue type image creation device using text messages (here it should be noted that the language of the claim as presented does not require the text messages to be send using a mobile telephone; figs. 19A-C provides a series of text messages for selecting the desired properties of each part image, and based on the selected property a candidate part image is selected, figs. 19A-C, col. 10 lines 44-48, col. 11 lines 4-24). Therefore, it would have been obvious to one of ordinary skill in art at the time of present invention to select part images using text messages as taught by Kakiyama and apply it into the apparatus of Strandberg because using such a dialogue type image creation system in form of text messages for selecting a candidate part image automatically based on the desired properties results in saving time otherwise required to select the respective part images by operating keys (col. 10 lines 40-47).

15. Regarding claims 142, 160, 169, 178 and 187, Strandberg teaches the step of compacting codes used to represent the selections (col. 3 lines 42-45 and col. 4 lines 13-15; a code used to summon the graphic equivalent stored in the computer memory corresponds to code used to represent the selection of part images).



16. Regarding claims 143/139, 143/140, 152, 165/157, 165/158, 174/166, 174/167, 183/175 and 183/176, although Strandberg teaches the claimed limitations as stated above, Strandberg does not explicitly teach the step of receiving the specifications as an appendage to a text message. However, Kakiyama teaches the step of receiving the specifications as an appendage to a text message (figs. 19A-C, col. 11 lines 4-24; the contoured selected in fig. 19 A is appended to the text message for selection of hair style in fig. 19 B; both these selections are appended to the text message as shown in fig. 19 C for selecting eyes, and therefore after all the part images are selected an overall text message combining appended selections is created). Therefore, it would have been obvious to one of ordinary skill in art at the time of present invention to receive specifications for selecting part images using an appendage to text messages as taught by Kakiyama and apply it into the apparatus of Strandberg because using such a dialogue type image creation system that appendages data to the text messages for selecting a candidate part image automatically based on the desired properties selected in earlier steps results in saving time otherwise required to select the respective part images by operating keys (col. 10 lines 40-47 and col. 11 lines 4-12).

17. Regarding claims 148, 156, 164, 173, 182, and 191, the statements presented above, with respect to claims 141 and 147/139, are incorporated herein.

18. Claims 144/139, 144/140, 145, 146, 153/149, 153/150, 154, 161/157, 161/158, 162, 170/166, 170/167, 171, 179/1751 179/176, 180, 188/184, 188/185 and 189 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strandberg, in view of Kakiyama, and further in view of Haataja (US 6,137,836).

19. Regarding claims 144/139, 144/140, 145, 146, 153/149, 153/150, 154, 161/157, 161/158, 162, 170/166, 170/167, 171, 179/1751 179/176, 180, 188/184, 188/185 and 189, although the combination of Strandberg and Kakiyama disclose all of the claimed limitations as stated above, they do not explicitly teach the step of obtaining said set of part images from a server in a network, wherein the network comprises a mobile telephone network. However, Haataja teaches a remote station (network) with a computer (server) that transmits composite image of a plurality of primitive pictures (set of part images) to a portable communicator (cellular telephone) (fig. 3, figs. 8-10, col. 6 lines 30-67, col. 7 lines 20-26, col. 8 lines 6-42; the remote station transmitting telephony signals for a cellular telephone corresponds to a mobile telephone network). Therefore, it would have been obvious to one of ordinary skill in the art at the time of present invention to obtain primitive images from a server in a network as demonstrated by Haataja and use it into the method and apparatus of Strandberg and Kakiyama because obtaining the pictorial data of an image as a set of simplified composite part images of different primitive pictures reduces the required transmission bandwidths and is transmitted rapidly due to relatively few symbols required for transmission of the pictorial data (col. 2 lines 1-14).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jwalant Amin whose telephone number is 571-272-2455. The examiner can normally be reached on 9:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman can be reached on 571-272-7653. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

\*\*\* J.A. 2/4/08



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